



CV 04616

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DISCOVER GROWTH FUND, LLC,

Petitioner,

v.

CEMTREX, INC.,

Respondent.

X

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: Case No.

:

: **ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

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X

Upon the Declaration of John Kirkland, with exhibits thereto dated May 19, 2019, the accompanying Memorandum of Law in Support of Discover Growth Fund, LLC's ("Discover") Petition for Temporary Restraining Order and Preliminary Injunction in Aid of Arbitration, and all other papers related thereto, it is hereby:

ORDERED that Respondent Cemtrex, Inc. ("Cemtrex") show cause before this Court on May 29, 2019 at 10:30 a.m./p.m. in Courtroom 11A of the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York 10007, why an Order should not be entered pursuant to 28 U.S.C. § 2201 and Rule 65 of the Federal Rules of Civil Procedure and pending entry of final judgment in this action confirming the final arbitration award of a retired judge at JAMS pursuant to Section VI.H of the Securities Purchase Agreement dated March 22, 2019 ("SPA"):

- (a) Restraining Cemtrex from using or utilizing any services of ClearTrust, LLC, a Florida limited liability company ("ClearTrust") or any other transfer agent, unless and until ClearTrust or any other transfer agent agrees in writing to be bound by the terms and conditions of the Transfer Agent Instructions, in the form attached hereto as Exhibit 3 to the SPA ("Instructions");
- (b) Restraining Cemtrex and its officers, directors, employees, attorneys and agents, including without limitation Saagar Govil, Aron Govil, Paul Wyckoff, Sunny Patel, Raju Panjwani, Metodi Filipov, Mark Basile, The Basile Law Firm, Amiel Rossabi, Rossabi Law Partners, Charles Lockwood, Dudley Newman Feuerzeig LLP, ClearTrust and any future transfer agent, and all persons having actual

notice of this Order (collectively, "Cemtrex Related Persons") from permitting or allowing ClearTrust or any other transfer agent to perform or provide any services related to Cemtrex stock for any person or entity other than Discover, unless and until ClearTrust or any other transfer agent agrees in writing to be bound by the terms and conditions of the Instructions;

- (c) Restraining Cemtrex and all Cemtrex Related Persons from transferring, issuing or delivering any shares of Cemtrex common stock to any person or entity other than Discover, unless and until the number of shares of Cemtrex common stock stated in all pending and any future Delivery Notices sent by Discover are issued and delivered to Discover's designated broker by DWAC;
- (d) Requiring Cemtrex to engage ClearTrust or any other transfer agent to be bound by the terms and conditions of the Instructions and pursuant to the Instructions, increase the reserve of Cemtrex common stock for Discover to 15,000,000 shares;
- (e) Requiring Cemtrex to issue and deliver the number of shares of Cemtrex common stock stated in all pending and any future Delivery Notices sent by Discover to Discover's designated broker by DWAC; and
- (f) Awarding such other further relief as the Court deems just and proper.

IT IS FURTHER ORDERED that, good and sufficient cause having been shown,

Cemtrex and the Cemtrex Related Persons are hereby RESTRAINED AND ENJOINED pending the hearing and determination of this motion from:

- ~~(a) Using or utilizing any services of ClearTrust or any other transfer agent, unless and until ClearTrust or any other transfer agent agrees in writing to be bound by the terms and conditions of the Instructions;~~
- ~~(b) Permitting or allowing ClearTrust or any other transfer agent to perform or provide any services related to Cemtrex stock for any person or entity other than Discover, unless and until ClearTrust or any other transfer agent agrees in writing to be bound by the terms and conditions of the Instructions; and~~
- ~~(c)~~ Transferring, issuing or delivering any shares of Cemtrex common stock to any person or entity other than Discover, unless and until the number of shares of Cemtrex common stock stated in all pending and any future Delivery Notices sent by Discover are issued and delivered to Discover's designated broker by DWAC.

IT IS FURTHER ORDERED that security for this Order shall be posted in the amount of \$ 50,000.00 by May 24, 2019 at 5:00 p.m.

IT IS FURTHER ORDERED that opposition papers, if any, be served on Petitioner's counsel and the Court by May 24, 2019; and

IT IS FURTHER ORDERED that service by e-mail or overnight express mail on or before May 21, 2019 of this Order, together with a copy of the papers on which it is based, on the Centrex or its representatives at the addresses identified in correspondence among the parties in the arbitration proceeding, shall constitute good and sufficient service of (a) this Order, (b) the papers upon which it is based, and (c) the summons and petition herein.

Dated: New York, New York
May 20, 2019


UNITED STATES DISTRICT JUDGE